

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JULISSA CERVANTES,
Plaintiff,

vs.

Case No. 04-1385-JTM

MURPHY FAMILY FARMS,
and LUIS RODRIGUEZ,
Defendants.

MEMORANDUM AND ORDER

This is a Title VII action by plaintiff Julissa Cervantes for sex discrimination and harassment, as well as state law assault and battery and emotional distress. The matter is before the court on the Motion to Dismiss filed by defendant Murphy Brown, L.L.C. Murphy Brown argues that there is no jurisdiction over the matter in Kansas, since all the parties are residents of Oklahoma and the cause of action arose there. According to defendant's motion, none of the events in the case occurred in Kansas, and the complaint itself states that Cervantes is a resident of Oklahoma and that Murphy is an Oklahoma corporation.

Following the defendant's motion, plaintiff has filed no response to the arguments or statements advanced therein. Accordingly, for good cause shown and pursuant to D.Kan.Rule 7.4, the court finds that venue is improper under 28 U.S.C. § 1391(b) (which would require either the residence of all defendants in Kansas, some Kansas connection to the cause of action, or the absence of any alternative venue) or § 1391(c) (which would require that Murphy be subject to personal

jurisdiction in Kansas). The uncontroverted facts before the court establish that exercising personal jurisdiction over Murphy in Kansas could not be undertaken in a manner consistent with due process. Venue is also inappropriate under 42 U.S.C. § 200e-5(f)(3).

Further, the court notes that plaintiff makes no allegation that there is any basis for maintenance of any separate action against defendant Rodriguez in Kansas, and, as noted, the uncontroverted facts presented in Murphy's motion confirms that Kansas is not an appropriate venue as to defendant Rodriguez.

IT IS ACCORDINGLY ORDERED this 30th day of August, 2005, that the defendant's Motion to Dismiss (Dkt. No. 8) is granted for the reasons stated herein, and the present action is hereby dismissed.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE